



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventors: Toyoki UE et al. Art Unit 2684

Serial No.: 10/057,897 Examiner A. Gantt

Filed: January 29, 2002

For: RADIO COMMUNICATION DEVICE AND METHOD OF
CONTROLLING TRANSMISSION RATE

NOTICE OF SPECIAL STATUS

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

In accordance with a letter (copy attached) from the MPEP Editor published at 82 JPTOS 467 (July, 2000), this application is entitled to special status in view of the Petition to Make Special granted October 24, 2003 in the parent application no. 09/820,636. The MPEP Editor's letter stated "if a petition to make special has been granted in a parent application, that special status will carry over to a continuation application."

Respectfully submitted,

James E. Ledbetter
Registration No. 28,732

Date: February 22, 2005

JEL/att

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Dear Mr. Neifeld,

Your e-mail message to Mr. Kunin was forwarded to me for response.

As to your item (1) noted below, MPEP 708 (Order of Examination) states that each examiner will give priority to that application in his/her docket which has the oldest effective US filing date. Therefore, if you have a continuation application, that continuation application will be taken up for action based on the earliest effective US filing date, rather than the actual filing date of the continuation application. The continuation application is in effect given special status since it is advanced out of turn for examination.

If your application is not a continuation application, you may request special status pursuant to the procedures set forth in MPEP 708.02, VIII, "Special Examining Procedure for Certain New Applications—Accelerated Examination." One of the requirements under this procedure is to have applicant submit a statement that a pre-examination search was made. It doesn't matter whether the pre-examination search was made by applicant, a foreign office or the USPTO. For example, if you have a national stage application filed under 35 U.S.C. 371 (the order of examination of a national stage application is based on the 35 U.S.C. 371(c) date—see MPEP 1893.03) a search report performed by the USPTO as the ISA or by any foreign Offices would satisfy the requirement of a pre-examination search under MPEP 708.02, VIII. You may request special status for that national stage application provided all the other requirements set forth in MPEP 708.02, VIII are satisfied.

As to your item (2) noted below, if a petition to make special has been granted in a parent application, that special status will carry over to a continuation application.

Hope this information is helpful.

Magdelen Greenlie, MPEP Editor